

CHAPTER 24:05:25

EVALUATION, CONSENT, AND PLACEMENT PROCEDURES

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24:05:25:01. Evaluation, consent, eligibility, and placement procedures required. Each school district shall establish and implement procedures which meet the requirements of this chapter, including nondiscriminatory practices, parental consent, initial evaluation, evaluation procedures, eligibility procedures, placement procedures, and reevaluation.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:02. Nondiscriminatory practices. ~~Testing~~ Assessments and other evaluation materials used for the purpose of evaluation and placement of children with disabilities must be selected and administered so as not to be racially or culturally discriminatory.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:02.01 Parental consent for initial evaluation. Any school district proposing to conduct an initial evaluation to determine whether a child qualifies as a child with a disability shall, after providing notice consistent with chapter 24:05:30, obtain informed consent from the parent of the child before conducting the evaluation.

Parental consent for initial evaluation may not be construed as consent for initial provision of special education and related services.

The school district shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

To meet the reasonable efforts requirement in this section, the district shall document its attempts to obtain parental consent using the procedures in § 24:05:25:17.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:02.02 Consent for ward of the state. For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

- (1) Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent of the child;
- (2) The rights of the parents of the child have been terminated in accordance with state law; or
- (3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

To meet the reasonable efforts requirement in this section, the district shall document its attempts to obtain parental consent using the procedures in § 24:05:25:17.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:02.03 Use of procedural safeguards to obtain parental consent. If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under this section, or the parent fails to respond to a request to provide consent, the district may, but is not required to, pursue the initial evaluation of the child by using the procedural safeguards in this article, including the mediation procedures or the due process procedures, if appropriate, except to the extent inconsistent with state law relating to such parental consent.

The school district does not violate its obligation under child find in this article and the requirements in this chapter regarding parental consent, evaluation, and reevaluation if the district declines to pursue the evaluation.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:02.04 Other consent requirements. Other consent requirements include the following:

- (1) Parental consent is not required before:

(a) Reviewing existing data as part of an evaluation or a reevaluation; or
(b) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children;

(2) A school district may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the school district, except as required by this article;

(3) If a parent of a child who is receiving alternative instruction under SDCL 13-27-3 or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or if the parent fails to respond to a request to provide consent, the school district may not use the consent override procedures in chapter 24:05:30 including mediation and due process hearing procedures. The school district is not required to consider the child as eligible for services under chapter 24:05:32.

Source: Transferred from § 24:05:30:05.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:03. Preplacement evaluation. Before any action is taken concerning the initial placement of a child with disabilities in a special education program, a full and individual initial evaluation of the child's educational needs must be conducted in accordance with the requirements of this chapter. ~~Evaluations~~ Initial evaluations must be completed within 25 school days after receipt by the district of signed parent consent to evaluate unless other timelines are agreed to by the school administration and the parents. ~~Consent for initial evaluation may not be construed as consent for initial placement.~~

Written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of the 25 school day evaluation timeline. If another timeline for completing the evaluation process is agreed to by the parent and school administration, the written evaluation reports determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of agreed upon evaluation timeline.

Consistent with the consent requirements in this section, either a parent of a child or a school district may initiate a request for an initial evaluation to determine whether the child is a child with a disability.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

Cross-Reference: Procedural safeguards, ch 24:05:30.

24:05:25:03.01 Evaluation defined. Evaluation means the procedures used in accordance with this chapter to determine if whether a child is ~~disabled~~ a child with a disability and to determine the nature and extent of the special education and related services that the child needs.

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:03.02 Exception to initial evaluation timeline. The timeline described in § 24:05:25:03 does not apply to a school district if:

(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

(2) A child enrolls in a school of another school district after the relevant timeline in § 24:05:25:03 has begun, and before a determination by the child's previous school district as to whether the child is a child with a disability.

The exception in this section applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:03.03 Screening for instructional purposes. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:03.04 Evaluation procedures - - Notice. The school district shall provide notice to the parents of a child with a disability, in accordance with this article, that describes any evaluation procedures the district proposes to conduct.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:04. Evaluation procedures - - General. School districts shall ensure, at a minimum, that evaluation procedures include the following:

(1) Assessments ~~Tests~~ and other evaluation materials are provided and administered in the child's native language or by another mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer. ~~that the child understands, unless it is clearly not feasible to do so. Any standardized tests that are given to a child:~~

In addition, assessments and other evaluation materials:

- (a) Are used for the purposes for which the assessments or measures are valid and reliable ~~Have been validated for the specific purpose for which they are used;~~ and
- (b) Are administered by trained and knowledgeable personnel in conformance with the instructions provided by their producer;

(2) Assessments ~~Tests~~ and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

(3) Assessments ~~Tests~~ are selected and administered so as best to ensure that ~~a test if an assessment is~~ administered to a child with impaired sensory, manual, or speaking skills, the assessment accurately reflects the child's aptitude or achievement level or whatever other factors the ~~test~~ assessment purports to measure, rather than the child's impaired sensory, manual, or speaking skills except where those skills are the factors which the ~~test~~ assessment purports to measure;

(4) No single measure or assessment ~~procedure~~ is used as the sole criterion for determining eligibility or an appropriate educational program for a child;

(5) A variety of assessment tools and strategies are used to gather relevant functional, ~~and development~~ developmental, and academic information about the child, including information provided by the parents, that may assist in determining:

- (a) Whether the child is a child with a disability; and
 - (b) The content of the child's IEP, including information related to enabling the child:
 - (i) To be involved in and progress in the general education curriculum; or
 - (ii) For a preschool child, to participate in appropriate activities;
- (6) Technically sound instruments, assessment tools, and strategies are used that:

(a) May assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors; and

(b) Provide relevant information that directly assists persons in determining the educational needs of the child;

(7) The child is assessed in all areas related to the suspected disability, including, if appropriate as applicable, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities; and

(8) The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified;

~~(9) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills; and~~

~~(10) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.~~

Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with 24:05:25:03.01, to ensure prompt completion of full evaluations.

Source: 16 SDR 41, effective September 7, 1989; 18 SDR 158, effective March 31, 1992; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1, 13-37-30.

24:05:25:04.02. Determination of needed evaluation data. As part of an initial evaluation, if appropriate, and as part of any reevaluation, the individual education program team required by § 24:05:27:01.01 and other qualified professionals as appropriate individuals with knowledge and skills necessary to interpret evaluation data, ~~determine whether the child has a disability, and determine whether the child needs special education and related services, as appropriate,~~ shall:

(1) Review existing evaluation data on the child, including:

- (a) Evaluations and information provided by the parents of the child;
- (b) Current classroom-based local or state assessments and observations; and
- (c) Observations by teachers and related services providers; and

(2) Based on the above review and input from the student's parents, identify what additional data, if any, are needed to determine:

- (a) Whether the student has a particular category of disability as described in this article;
- (b) The present levels of performance and educational needs of the student; and
- (c) Whether the student needs special education and related services.

The school district shall administer assessments ~~tests~~ and any other evaluation materials as may be needed to produce the data required to make the determinations listed in subdivision (2) of this section. If no additional data are needed to make the determinations listed in subdivision (2) of this section, the school district shall notify the student's parents of this fact and the reasons for this decision. The group described in this section may conduct its review without a meeting.

Source: 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:04.03. Determination of eligibility. Upon completing the administration of assessments ~~tests~~ and other evaluation measures ~~materials~~ as required by this chapter, the individual education program team and other qualified individuals required by § 24:05:25:04.02 shall determine whether the student is a student with a disability, and shall determine the educational needs of the child, as defined in this article. The school district shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. A student may not be determined to be a student with a disability if the determinant factor for that decision is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in ESEA, or lack of appropriate instruction in math or limited English proficiency and if the student does not otherwise meet the eligibility criteria under chapter § 24:05:24.01.

Source: 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:05. Eligibility and placement procedures. In interpreting evaluation data for the purpose of determining eligibility and determining the educational needs of the child, and in making placement decisions, including decisions regarding preschool children, each school district shall do the following:

- (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

(2) Ensure that information obtained from all of these sources is documented and carefully considered;

(3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;

(4) Ensure that the placement decision is made in conformity with the least restrictive environment rules in chapter 24:05:28; and

(5) Ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

If a determination is made that a child is disabled and needs special education and related services, an individual education program must be developed for the child in accordance with this article.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:06. Reevaluations. ~~Each~~ A school district shall ~~conduct~~ ensure that a reevaluation of each child with a disability is conducted in accordance with this chapter if the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or if the child's parent or teacher requests a reevaluation.

A reevaluation conducted ~~for these purposes may not occur more frequently under this section may occur not more~~ than once a year, unless the parent and the school district agree, ~~but shall otherwise, and must~~ occur at least once every three years, unless the parent and the school district agree that a reevaluation is unnecessary.

Reevaluations must be completed within 25 school days after receipt by the district of signed consent to reevaluate unless other time limits are agreed to by the school administration and the parents.

Each school district shall follow the procedures under § 24:05:25:04.02 when reevaluating a student for the additional purposes of:

(1) Determining whether the child continues to have a disability and determining the educational needs of the child;

(2) Determining the present levels of academic achievement and related developmental needs of the child;

~~(2)~~ (3) Determining whether the child continues to need special education and related services; and

~~(3)~~ (4) Determining whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable

annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

If no additional data are needed to determine continuing eligibility ~~or~~ and the child's educational needs, the district shall notify the parents of that determination and reasons for it and of the right of the parent to request an assessment, for purposes of determining the child's educational needs services under this article, and to determine continuing eligibility. The school district is not required to conduct an assessment unless requested to do so by the child's parents. However, a school district shall follow the procedures in this chapter before determining that the child is no longer a child with a disability. The evaluation procedures described in this chapter are not required before the termination of a child's eligibility under this article due to graduation from secondary school with a regular high school diploma, or exceeding the age eligibility for FAPE.

Source: 16 SDR 41, effective September 7, 1989; 17 SDR 30, effective August 27, 1990; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:06.01. Consent for reevaluation. Before conducting a reevaluation of an eligible child, parental consent is required, unless:

(1) The school district can demonstrate that it has taken reasonable measures to obtain consent, and the child's parent has failed to respond; and

(2) The school district documents its efforts to obtain consent by using the procedures consistent with § 24:05:25:17.

If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the consent override procedures described in chapter 24:05:30 including mediation and due process hearing procedures.

Source: 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:08. Additional ~~team~~ group members for specific learning disabilities. ~~Each district shall include the following on the multidisciplinary evaluation team:~~

The determination of whether a child suspected of having a specific learning disability is a child with a disability shall be made by the child's parents and a team of qualified professionals, which shall include:

~~(1) The child's parents;~~

~~(2) (1) The child's regular teacher;~~

~~(3) (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of that age;~~

(4) (3) If the child is less than school age, an individual certified by the department to teach a child of that age; and

(5) (4) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, remedial reading teacher, or special education teacher.

Source: 16 SDR 41, effective September 7, 1989; 17 SDR 30, effective August 27, 1990; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-1-12.1, 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:10. Prohibitions concerning identification of specific learning disabilities. ~~The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of a visual, hearing, or motor disability; mental retardation; emotional disturbance; or environmental, cultural, or economic disadvantage.~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

~~**General Authority:** SDCL 13-37-1.1.~~

~~**Law Implemented:** SDCL 13-37-1.1.~~

24:05:25:11. Observation for specific learning disabilities. ~~At least one team member other than the child's regular teacher must observe the child's academic performance in the regular classroom setting.~~

The school district shall ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.

The group described in this section, in determining whether a child has a specific learning disability, shall:

(1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, as in an response to intervention model; or

(2) Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with this chapter, is obtained, as in a discrepancy model.

If a child is less than school age or out of school, a ~~team~~ group member must observe the child in an environment appropriate for a child of that age.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:12. ~~Written report~~ Documentation of eligibility for specific learning disabilities. The team shall prepare a written report of the results of the evaluation for specific learning disabilities. The report must include a statement of the following:

- ~~(1) Whether the child has a specific learning disability;~~
- ~~(2) The basis for making the determination;~~
- ~~(3) The relevant behavior noted during the observation of the child;~~
- ~~(4) The relationship of that behavior to the child's academic functioning;~~
- ~~(5) The educationally relevant medical findings, if any;~~
- ~~(6) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services; and~~
- ~~(7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.~~

For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain a statement of:

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination, including an assurance that the determination has been made in accordance with this section;
- (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- (4) The educationally relevant medical findings, if any;
- (5) Whether:
 - (a) The child does not achieve adequately for the child's age or does not meet state-approved grade-level standards; and
 - (b) The child does not make sufficient progress to meet age or state-approved grade-level standards; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards or intellectual development;
- (6) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level;
- (7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:
 - (a) The instructional strategies used and the student-centered data collected; and
 - (b) The documentation that the child's parents were notified about:
 - (i) The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
 - (ii) Strategies for increasing the child's rate of learning; and
 - (iii) The parents' right to request an evaluation;

(8) If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy; and

(9) If using the response to intervention model for eligibility determination, the group shall demonstrate that the child's performance is below the mean relative to age or state approved grade level standards.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:13. ~~Team~~—Group members to certify report in writing. Each group ~~team~~ member shall certify in writing whether the report reflects the group ~~team~~ member's conclusion. If it does not reflect the group ~~team~~ member's conclusion, the group ~~team~~ member must submit the conclusion in a separate statement.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:13.01. Response to intervention model. School districts that elect to use a response to intervention model as part of the evaluation process for specific learning disabilities shall submit to the state for approval a formal proposal that at a minimum addresses the provisions in § 24:05:25:12.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:16. Parent participation. Each district shall take steps to ensure that one or both parents of the child are present at each IEP team meeting or are afforded the opportunity to participate. The district shall notify parents of the meeting early enough to ensure that they will have an opportunity to attend, scheduling the meeting at a mutually agreed-upon time and place. The notice to the parents shall state the purpose, time, and location of the IEP team meeting and who will be in attendance and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child, including information related to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the IDEA.

If a purpose of the IEP team meeting is the consideration of postsecondary goals and ~~transition services needs~~ or transition services for a student, the notice must also address the provisions of § 24:05:25:16.01.

If parents cannot attend, the district shall use other methods to ensure participation, including individual or conference telephone calls consistent with § 24:05:27:08.04.

Source: 16 SDR 41, effective September 7, 1989; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

Cross-Reference: Transition services, § 24:05:27:13.02.

24:05:25:16.01. Participation of student in IEP team meeting. If a purpose of the IEP team meeting is the consideration of postsecondary goals and ~~transition services needs~~ or transition services for a student, ~~the following provisions apply:~~

~~(1) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also:~~

~~(a) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student; and~~

~~(b) Indicate that the agency will invite the student; and~~

~~(2) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must:~~

and if the meeting is for a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, the notice also must:

~~(a)~~ (1) Indicate that a purpose of the meeting is the consideration of the postsecondary goals and ~~needed~~ transition services for the student;

~~(b)~~ (2) Indicate that the district agency will invite the student; and

~~(c)~~ (3) Identify To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, identify any other agency that is likely to be responsible for providing or paying for transition service services and that will be invited to send a representative.

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:16.02. Required student invitation. The district shall invite ~~each student of any age to participate in an~~ a student with a disability to attend the student's IEP team meeting if a purpose of the meeting is the consideration of the postsecondary goals for the student and the transition services needs or consideration of needed transition services for the student or both needed to assist the student in reaching those goals.

If the student does not attend the IEP team meeting, the district shall take other steps to ensure that the student's preferences and interests are considered.

Source: 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

Cross-References: Transition services, § 24:05:27:13.02.

24:05:25:18. Action to ensure parent understands. The district shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP team ~~a~~ meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:19. Parents to receive copy of individual education program. The district shall give the parents a copy of the individual education program, at no cost ~~developed at the IEP team meeting.~~

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:25:22. IEP team to develop individual education program. If the child is determined to be in need of special education or special education and related services, the ~~placement committee~~ IEP team shall develop an appropriate individual education program for the child. At the beginning of each school year thereafter, the district must have in effect an IEP for each child with disabilities within its jurisdiction. For children beginning at age three, an IEP shall be in effect by that date. If a child's third birthday occurs during the summer, the ~~placement committee~~ IEP team shall determine the date when services under the IEP will begin. All IEPs shall be developed in accordance with the provisions of this article.

Source: 16 SDR 41, effective September 7, 1989; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

Cross-Reference: Individual educational program, ch 24:05:27.

24:05:25:24. Short-term evaluation programs. ~~The placement of eligible children in short-term evaluation programs must provide for the following:~~

~~(1) Developing an interim individual education program before providing special education or special education and related services;~~

~~(2) Obtaining written parental consent, including meeting the prior notice requirements before the child is placed in the program;~~

~~(3) Describing the special education or special education and related services to be provided and evaluations to be completed during the placement period; and~~

~~(4) Conducting an IEP team meeting at the end of the evaluation period for the purpose of finalizing an individual education program~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

Cross-Reference: Procedural safeguards, ch 24:05:30.

24:05:25:25. Duration of short-term evaluation. ~~The placement of an eligible student in a short-term evaluation program may not exceed 45 school days~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

Cross-Reference: Procedural safeguards, ch 24:05:30.

24:05:25:26. Extended school year authorized. The district shall provide extended school year ~~special education or special education and related~~ services to eligible children if the IEP team determines on an individual basis that such services are necessary for the provision of FAPE.

An IEP pursuant to chapter 24:05:27 shall be developed and implemented by the IEP team that addresses the need for extended school year services ~~and implemented with~~

~~informed parental consent~~. The IEP team shall determine the length of the school day and duration of extended school year services based on the individual child's needs.

In implementing the requirements of this section, a district may not:

- (1) Limit extended school year services to particular categories of disability;
- (2) Unilaterally limit the type, amount, or duration of those services; or
- (3) Apply a regression/recoupment criterion to children in need of prolonged assistance.

As used in this section, the term, extended school year services, means special education and related services that meet the standards of the state and are provided to a student with a disability beyond the normal school year of the district, in accordance with the student's IEP and at no cost to the parents of the student.

Source: 16 SDR 41, effective September 7, 1989; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.